

**UNITED STATES COURT OF APPEALS**

**MAR 5 2002**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

ARTHUR B. CRAWFORD,

Petitioner - Appellant,

v.

ROBERT FURLONG,

Respondent - Appellee.

No. 01-1421

(D.C. No. 01-Z-1005)

(D. Colorado)

**ORDER AND JUDGMENT\***

Before **SEYMOUR** and **McKAY**, Circuit Judges, and **BRORBY**, Senior Circuit Judge.

After examining Petitioner's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

The trial court directed Petitioner to show that he had satisfied the exhaustion requirements of O'Sullivan v. Boerckel, 526 U.S. 838 (1999), or show cause why he had not. He did not respond to the trial court's direction. The trial

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

court dismissed Mr. Crawford's claims without prejudice, denied his motion to proceed *in forma pauperis* on appeal, and denied a certificate of appealability. This appeal followed and was accompanied by an application for a certificate of appealability and a motion to proceed *in forma pauperis*.

On appeal, Mr. Crawford continues to evade his responsibility to prove that he has exhausted state remedies or, in the alternative, show cause why he did not exhaust the state remedies available to him. The trial court's determination was clearly correct. Therefore, we **DENY** Mr. Crawford's motion to proceed *in forma pauperis*, **DENY** his application for a certificate of appealability, and **DISMISS** the appeal.

ENTERED FOR THE COURT

Monroe G. McKay  
Circuit Judge